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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/530,906	04/08/2005	Gerd Bar	3350	9489

7590 03/15/2007
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EXAMINER

KEENAN, JAMES W

ART UNIT	PAPER NUMBER
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3652

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/15/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/530,906	Applicant(s) BAR, GERD	
	Examiner James Keenan	Art Unit 3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 4/8/05 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>4/8/05</u> . | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 3652

1. The disclosure is objected to because of the following informalities: the references to specific claim numbers in the specification, such as page 1, line 2, should be deleted. On the abstract page, the notation "(Fig. 2)" at the bottom of the page should be deleted.

Appropriate correction is required.

2. The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

Art Unit: 3652

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 12-29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 12, line 4, the recitation "one vertical carriage each" is awkward and unclear;

line 12, the recitation "and/or" is vague;

lines 11 and 15, "the direction of attachment" has no clear antecedent basis;

and lines 10-15, the terminology used, such as "is attached" and "is arrested", is generally unclear in that it seems to be directed to method terminology, thus it is not understood if such limitations are positively required by the claim or merely functional recitations, thereby rendering the scope of the claim unclear.

Claim 13, "is inserted" is unclear in the same manner noted above.

Claim 14, "the recess" lacks antecedent basis (in claim 12), as does the same recitation in claims 15, 18, and 19.

In claims 20-26 and 28-29, the multiple recitations of "and/or" are vague.

In claim 22, lines 2, 3, and 5, "the ... carrier" lacks antecedent basis (in claim 21);

in lines 5-6, "mutually rotated" is unclear;

and lines 6-7, "in particular" is vague.

In claims 24 and 28, "mutually rotated" and "in particular" are indefinite in the same manner noted above.

Art Unit: 3652

In claim 25, it is not clear if both references to "the recess" refer to the same element (it is not believed that they do).

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 12, as best understood, is rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Bar (EP 662,405), cited by applicant.

Bar shows the invention essentially as claimed (it being noted that the invention of the instant application is, of course, an improvement of the Bar device), including carriages 56 slidable along rails 32, the carriages inherently having front and rear guiding elements, as broadly claimed, with upper and lower sliding members 57, 62, respectively. Although the exact manner of attachment of the guiding elements onto the carriages is not apparently disclosed, it is believed either the front guiding element could be "attached from above", or the rear guiding element could be "attached from below",

Art Unit: 3652

as broadly and indefinitely recited, without modification, which is all that the claim is understood to require, as noted above regarding the 112/2nd paragraph rejection.

On the other hand, if the claim is interpreted as positively requiring the guiding elements to be attached to the carriages in the manner set forth, it would have been obvious for one of ordinary skill in the art at the time of the invention to have modified the apparatus of Bar by attaching the front guiding element from above, or by attaching the rear guiding element from below, is this would be a mere design expediency well within the level of ordinary skill.

8. Claim 12, as best understood, is rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Badasha (GB 2,207,113).

Badasha shows a tail lift for a vehicle, including lift mechanism 8, platform 9, guide rails 4, carriages 5, front and rear guiding elements 6, and corresponding upper and lower sliding members (the portion of the rollers engaged with the guide rails). Again, while the exact manner of attaching the guide elements onto the carriages is not disclosed, it is believed that they could be attached in the functionally recited manner, as noted above in paragraph 7.

Alternatively, if the claim language in question is given a positive structural limitation, it would have been obvious for one of ordinary skill in the art at the time of the invention to have modified the apparatus of Badesha by attaching the guiding elements in the claimed manner, as noted above in paragraph 7, as a mere design expediency.

Art Unit: 3652

9. Although the prior art does not clearly render claims 13-29 unpatentable and has therefore not been applied, this does not necessarily indicate that these claims contain allowable subject matter. Because these claims so seriously fail to meet the requirements of 35 USC 112, 2nd paragraph, as noted above, it is not possible to properly apply the art to these claims without disregarding portions of the express wording of the claims and thus resorting to speculation and conjecture as to the particular invention defined therein. Ex Parte Lyell, 17 USPQ 1548, 1552.

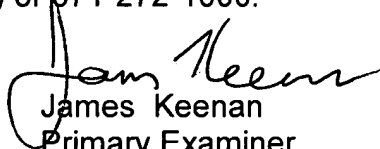
10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Keenan whose telephone number is 571-272-6925. The examiner can normally be reached on (schedule varies).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Mackey can be reached on 571-272-6916. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3652

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


James Keenan
Primary Examiner
Art Unit 3652

jwk
3/14/07